

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOHNNY FLETCHER, JR.,

Plaintiff,

v.

UNITED STATES, et al.,

Defendants.

Case No. 1:22-cv-00443 JLT GSA (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING THE
ACTION WITHOUT PREJUDICE, AND
DIRECTING THE CLERK OF COURT TO
CLOSE THIS CASE

(Doc. 13)

Johnny Fletcher, Jr., asserts he suffered violations of his civil rights while incarcerated at USP Atwater, and seeks to hold the defendants liable under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). After Plaintiff was released from custody, the Court ordered him to complete an application to proceed *in forma pauperis*. (Doc. 10.) Plaintiff did not respond to the Court's order.

The magistrate judge found Plaintiff failed to obey the Court's orders—including both the order regarding an application to proceed *in forma pauperis* and an order to show cause—and failed to prosecute this case. (Doc. 13 at 4.) The magistrate judge found terminating sanctions are appropriate after considering the factors identified by the Ninth Circuit in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987). (*Id.* at 3-6.) Therefore, the magistrate judge recommended the Court dismiss the action without prejudice. (*Id.* at 6.)

The Court served the Findings and Recommendations on Plaintiff and notified him that

1 any objections were due within 14 days. (Doc. 13 at 6.) The Court advised him that the “failure
2 to file objections within the specified time may result in the waiver of certain rights on appeal.”
3 (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file
4 objections, and the time to do so has passed.

5 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
6 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
7 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 8 1. The Findings and Recommendations issued March 11, 2025 (Doc. 13) are
9 **ADOPTED** in full.
- 10 2. This matter is **DISMISSED** without prejudice for failure to prosecute and for
11 failure to obey court orders.
- 12 3. The Clerk of Court is directed to CLOSE this case.

13
14 IT IS SO ORDERED.

15 Dated: **April 3, 2025**


UNITED STATES DISTRICT JUDGE